

REMARKS

By the present amendment, the applicants have amended the claims by combining Claims 1 and 2, cancelling Claim 2 and changing the dependency of Claims 3 and 4 to Claim 1. Thus, the main or independent claim in the application relates to a pressurized container containing a mixture of disinfectants or biocides with carbon dioxide as the propellant wherein the disinfectants or biocides are chlorine gas or compounds capable of developing active chlorine.

In the Office Action, the Examiner rejected Claims 1 and 5 through 9 under 35 U.S.C. 102(b) over the Oyama reference and Claims 1 and 10 under 35 U.S.C. 102(b) over the Burger reference. Since current Claim 1 includes the elements of original Claim 2, these rejections appear to be moot.

The Examiner also rejected original Claims 2 through 4 as being obvious under 35 U.S.C. 103(a) over the Oyama reference in view of the Alliger reference. The Examiner maintains that "Oyama has all the features of the claimed invention except that the disinfectants are selected from chlorine gas." While the Examiner is correct that the disinfectants disclosed by Oyama do not include chlorine gas, the Examiner is clearly in error in stating that Oyama otherwise discloses all the features of the claimed invention. The mixture utilized in Oyama is .1 to 2% benzalkonium chloride and 98 to 99.9% ethanol (utilized as a solvent), (Patent,

Column 4, lines 1 through 4). The ethanol in Oyama is in effect the propellant therein whereas in the present invention, carbon dioxide is the only propellant used. There is no disclosure of nor any mention whatsoever of carbon dioxide in Oyama. The Examiner further states that Alliger discloses that it is known in the dispensing art to use chlorine as a disinfectant and that combining the teachings of Oyama and Alliger renders obvious the present invention.

It is the applicant's contention that combining the teachings of Oyama and Alliger results in a mixture of ethanol and chlorine not carbon dioxide and chlorine.

In addition, the Alliger reference relates to a germ killing composition produced by contacting an acid material, preferably consisting of 15% by weight of lactic acid, with sodium chlorite in aqueous media. The result is a mixture containing chloride dioxide, chlorous acid, lactic acid and sodium lactate. (Patent, Column 3, line 53 to Column 4, line 2). However, Alliger also points out that "the compositions should be used within a period of up to 48 hours" and, if not, the lactic acid and chlorite compounds should be isolated by separate packaging (Patent, Column 4, lines 7 through 10) and mixed at the time of use. This problem of the Alliger reference is overcome by the present invention since mixtures of chlorine gas or compounds able to develop active chlorine and carbon dioxide are stable and can be stored in a single container as clearly pointed out in the instant PCT

published specification at page 7, lines 17 to 19. A further advantage of the present invention, as disclosed in the instant PCT published specification at page 7, lines 7 to 16, is that lower concentrations of chlorine or chlorine developing agent can be used because carbon dioxide synergistically increases the disinfecting power of chlorine.

In view of the above, it is respectfully submitted that the claims remaining in the application, claims 1 and 3 to 10, are not rendered obvious by the combination of the Oyama and Alliger references, since no disclosure of carbon dioxide is found therein, and are not anticipated by either cited reference. Therefore, it is respectfully submitted that Claims 1, and 3 to 10, are patentable and should be allowed. Such action is respectfully solicited.

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